



March 16, 1999

Mr. Thomas P. Brandt
Fanning, Harper & Martinson
8117 Preston Road
Third Floor Preston Commons West
Dallas, Texas 75225

OR99-0735

Dear Mr. Brandt:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 122813.

Rockwall County received a request for jail records from 1997 to the present pertaining to a named individual. You seek to withhold the requested information under sections 552.103, 552.107, and 552.111 of the Government Code.

Section 552.103(a) excepts from required public disclosure information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. Open Records Decision No. 588 (1991). You have submitted pleadings in the matter of *Pugh v. Rockwall County et al*, which is pending in the United States District Court for the Northern District of Texas, number 3-98CV2142-P. The requested information appears to relate to this lawsuit. Therefore, you may generally withhold the requested information under section 552.103(a).

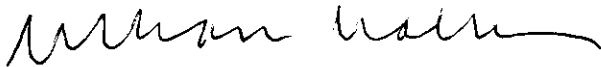
We note that the submitted information includes an offense report and an incident report. Absent a special showing, which you have not made here, "basic" or "front page" information from such law enforcement records is not protected by section 552.103. Open Records Decision No. 597 (1991). See generally Open Records Decision No. 127 (1976); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) ("basic" or "front page" information public). These portions of the requested information must be released.

Please note also that we assume that none of the information in the records at issue has previously been made available to the opposing party in the litigation. Absent special circumstances, once information has been obtained by all parties to the litigation, either through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). To the extent the opposing party has seen or had access to these records, there would be no justification for now withholding such information from the requestor pursuant to section 552.103(a). Similarly, section 552.103(a) does not authorize withholding materials which have already been made available to the public. Open Records Decision No. 436 at 7 (1986). Note, too, that the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982), Open Records Decision No. 350 (1982).

Since we have disposed of this request under section 552.103, we need not address your other claimed exceptions to disclosure of the requested information – sections 552.107 and 552.111 – except to note that those exceptions would not protect the "basic information" we have ordered you to release.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "William Walker", with a long horizontal flourish extending to the right.

William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Mr. Thomas P. Brandt - 3

Ref.: ID# 122813

Enclosures: Submitted documents

cc: Mr. L. David Anderson
Bellinger & DeWolf
750 N. St. Paul Street, Suite 900
Dallas, Texas 75201
(w/o enclosures)